

REFERENCE TITLE: traffic tickets; complaints; photo enforcement

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## **HB 2170**

Introduced by  
Representative Biggs

### AN ACT

AMENDING SECTIONS 28-1559, 28-1592 AND 28-1593, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1602; AMENDING TITLE 28, CHAPTER 8, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3323; AMENDING SECTION 41-1722, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO PHOTO ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 28-1559, Arizona Revised Statutes, is amended to  
3 read:

4           28-1559. Traffic case records; abstract of record; reports

5       A. Each magistrate, judge or hearing officer of a court shall:

6           1. Keep or cause to be kept a record of each traffic complaint or  
7 other legal form of traffic charge deposited with or presented to the court  
8 or its traffic violations bureau.

9           2. Keep a record of each official action by the court or its traffic  
10 violations bureau in reference to each traffic complaint or other legal form  
11 of traffic charge deposited with or presented to the court or its traffic  
12 violations bureau, including but not limited to a record of:

13           (a) Each conviction, forfeiture of bail or deposit, judgment of  
14 acquittal or civil adjudication.

15           (b) The amount of the civil penalty, fine or forfeiture resulting from  
16 each traffic complaint deposited with or presented to the court or traffic  
17 violations bureau.

18       B. Within ten days after the conviction, judgment or forfeiture of  
19 bail or deposit of a person on a charge of violating chapter 3 or 4 of this  
20 title or this chapter or any other law regulating the operation of vehicles  
21 on highways, each magistrate of the court or clerk of the court of record in  
22 which the conviction or judgment was had or bail or deposit was forfeited  
23 shall prepare and immediately forward to the department an abstract of the  
24 record of the court covering the case in which the person either:

25           1. Was convicted.

26           2. Was adjudicated to have committed a civil traffic violation.

27           3. Forfeited bail or deposit.

28       C. The person required to prepare the abstract shall certify that it  
29 is true and correct.

30       D. A report is not required for a conviction or civil adjudication  
31 involving the illegal parking or standing of a vehicle.

32       E. The abstract shall be made on a form furnished or in a manner  
33 prescribed by the department and shall include:

34           1. The name and address of the party charged.

35           2. The number, if any, of the driver license of the party charged.

36           3. The registration number of the vehicle involved.

37           4. The nature of the offense or civil traffic violation.

38           5. The date of the hearing, the plea, the judgment or whether bail or  
39 deposit was forfeited.

40           6. The amount of the fine, civil penalty or forfeiture.

41       F. Each court of record shall also forward a like report to the  
42 department on the conviction of a person of homicide or aggravated assault  
43 resulting from the operation of a motor vehicle or any other felony in the  
44 commission of which a motor vehicle was used. To facilitate the preparation  
45 of the report, the sentencing minute entry that is issued by the court shall

1 indicate if the person was convicted of an offense that required the  
2 mandatory revocation of a driver license pursuant to section 28-3304,  
3 subsection A, paragraph 1, 3, 4, 5 or 6.

4 G. The department shall keep all abstracts received under this section  
5 for inspection as required by law.

6 H. Each judge, referee, hearing officer, probation officer or other  
7 person responsible for the disposition of cases involving traffic offenses or  
8 civil violations committed by persons under eighteen years of age shall:

9     1. Keep a full record of each case in which the person is charged with  
10 a violation of chapter 3 or 4 of this title or this chapter or any other law  
11 regulating the operation of vehicles on highways.

12     2. Report the offense or civil violation to the department at its  
13 office in Phoenix not more than thirty days after the date on which it was  
14 committed, except that a report is not required for parking violations or if  
15 it is found that the offense or civil violation was not committed.

16 I. The report required by subsection H of this section shall:

17     1. Be made on a form furnished or in a manner prescribed by the  
18 department.

19     2. Contain:

20         (a) All necessary information as to the identity of the offender.

21         (b) The citing or arresting agency.

22         (c) The date and nature of the offense or civil violation.

23         (d) The date of the hearing, the plea, the judgment or whether bail or  
24 deposit was forfeited.

25         (e) The amount of the fine, civil penalty or forfeiture.

26 J. Failure, refusal or neglect of a judicial officer to comply with  
27 this section is misconduct in office and grounds for removal from office.

28 K. **SUBSECTION B OF THIS SECTION DOES NOT APPLY IF A PERSON IS FOUND  
29 RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION DETECTED BY THE STATE PHOTO  
30 ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION 41-1722 UNLESS THE  
31 VIOLATION IS COMMITTED BY A PERSON WHO HAS A VALID COMMERCIAL DRIVER LICENSE  
32 AS DEFINED IN SECTION 28-3001 OR WHO WAS OPERATING A MOTOR VEHICLE REQUIRING  
33 A CLASS A, B OR C LICENSE AT THE TIME OF THE VIOLATION.**

34 Sec. 2. Section 28-1592, Arizona Revised Statutes, is amended to read:

35     28-1592. Commencement of action

36 A. A civil traffic violation case is commenced by issuance or filing  
37 of a uniform traffic **TICKET AND** complaint as provided in this article.

38 B. A civil traffic violation case shall be commenced as follows:

39     1. If a case is commenced by issuance, it shall be issued within sixty  
40 days of the alleged violation.

41     2. If the case is commenced by filing, it shall be filed within sixty  
42 days of the alleged violation and shall be served within ninety days from the  
43 filing date.

3. Except as provided in paragraph 4, within one hundred eighty days of the alleged violation if the alleged violation is under investigation in conjunction with a traffic accident.

4. Within one year of the alleged violation if the alleged violation is under investigation in conjunction with a traffic accident resulting in death.

5. IF THE ALLEGED VIOLATION IS DETECTED BY THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION 41-1722, THE CASE SHALL BE FILED WITHIN NINETY DAYS OF THE ALLEGED VIOLATION.

10 Sec. 3. Section 28-1593, Arizona Revised Statutes, is amended to read:  
11 28-1593. Service of uniform traffic complaint

A. A traffic complaint may be served by delivering a copy of the uniform traffic **TICKET AND** complaint **citation** to the person charged with the violation or by any means authorized by the rules of civil procedure. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction with a traffic accident may be sent by certified mail, return receipt requested and delivered to addressee only, to the address provided by the person charged with the violation. Service of the complaint is complete on filing the receipt in the court having jurisdiction of the violation.

B. EXCEPT AS PROVIDED IN SECTION 28-1602, SUBSECTION A, the original complaint shall be filed in a court having jurisdiction of the violation within ten court days of the time the complaint was issued. A peace officer, or duly authorized agent or someone paid to act on behalf of a traffic enforcement agency, may issue the traffic complaint.

C. Notwithstanding subsection B of this section, a civil traffic violation issued pursuant to section 41-1722 may be issued pursuant to a notice of violation before a citation is filed in court.

**D.** C. If a person fails to respond to ~~the~~ A notice of violation or contests responsibility, a uniform traffic TICKET AND complaint ~~citation~~ shall be served and filed as otherwise provided in this section, EXCEPT THAT THE COMPLAINT SHALL NOT BE FILED IN COURT BEFORE THE PERSON IS SERVED WITH THE COMPLAINT.

~~E.~~ D. The supreme court shall establish rules governing the issuance, service and processing of the notice of violation, including rules allowing a person to admit responsibility before a ~~citation~~ **UNIFORM TRAFFIC TICKET AND COMPLAINT** is filed in court.

Sec. 4. Title 28, chapter 5, article 4, Arizona Revised Statutes, is amended by adding section 28-1602, to read:

40           28-1602. Photo enforcement; notice of violation; penalties;  
41           definition

A. A NOTICE OF VIOLATION FOR A CIVIL TRAFFIC VIOLATION DETECTED BY THE STATE PHOTO ENFORCEMENT SYSTEM MAY BE ISSUED BEFORE A UNIFORM TRAFFIC TICKET AND COMPLAINT IS FILED IN COURT.

1       B. THE PENALTY FOR A NOTICE OF VIOLATION ISSUED PURSUANT TO THE STATE  
2 PHOTO ENFORCEMENT SYSTEM IS ONE HUNDRED SIXTY-FIVE DOLLARS AND IS NOT SUBJECT  
3 TO ANY SURCHARGE EXCEPT THE SURCHARGE IMPOSED BY SECTION 16-954. THE PENALTY  
4 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE PHOTO  
5 ENFORCEMENT FUND ESTABLISHED BY SECTION 41-1722.

6       C. A COURT SHALL NOT TRANSMIT TO THE DEPARTMENT THE ABSTRACT OF ANY  
7 RECORD OF A NOTICE OF VIOLATION ISSUED PURSUANT TO THE STATE PHOTO  
8 ENFORCEMENT SYSTEM UNLESS THE VIOLATION IS COMMITTED BY A PERSON WHO HAS A  
9 VALID COMMERCIAL DRIVER LICENSE AS DEFINED IN SECTION 28-3001 OR WHO WAS  
10 OPERATING A MOTOR VEHICLE REQUIRING A CLASS A, B OR C LICENSE AT THE TIME OF  
11 THE VIOLATION.

12      D. FOR THE PURPOSES OF THIS SECTION, "STATE PHOTO ENFORCEMENT SYSTEM"  
13 MEANS THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION  
14 41-1722.

15      Sec. 5. Title 28, chapter 8, article 6, Arizona Revised Statutes, is  
16 amended by adding section 28-3323, to read:

17      28-3323. Suspension or revocation of license; state photo  
18                   enforcement system

19       IF A PERSON IS FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION DETECTED  
20 BY THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION  
21 41-1722, THE DEPARTMENT SHALL NOT CONSIDER THE VIOLATION FOR THE PURPOSE OF  
22 DETERMINING WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR  
23 REVOKED. THIS SECTION DOES NOT APPLY TO A PERSON WHO HAS A VALID COMMERCIAL  
24 DRIVER LICENSE OR WHO WAS OPERATING A MOTOR VEHICLE REQUIRING A CLASS A, B OR  
25 C LICENSE AT THE TIME OF THE VIOLATION.

26      Sec. 6. Section 41-1722, Arizona Revised Statutes, is amended to read:

27      41-1722. State photo enforcement system: photo enforcement:  
28                   fund

29       A. Notwithstanding any other law, the department shall enter into a  
30 contract or contracts with a private vendor or vendors pursuant to chapter 23  
31 of this title to establish a state photo enforcement system consisting of  
32 cameras placed throughout this state as determined by the director to enforce  
33 the provisions of title 28, chapter 3, articles 3 and 6 relating to vehicle  
34 traffic and speed.

35       B. ~~Notwithstanding any other law, the civil penalty or fine for a citation or a notice of violation issued pursuant to this section is one hundred sixty five dollars and is not subject to any surcharge except the surcharge imposed by section 16-954. State photo enforcement citations shall not be included in judicial productivity credit calculations for fiscal year 2008-2009.~~

41       C. B. The photo enforcement fund is established consisting of monies  
42 received from ~~citations~~ UNIFORM TRAFFIC TICKETS AND COMPLAINTS FILED or  
43 notices of violation issued pursuant to this section. The director shall  
44 administer the fund. Monies in the fund are subject to legislative  
45 appropriation and are appropriated to the department for administrative and

1 personnel costs of the state photo enforcement system. Monies remaining in  
2 the fund in excess of two hundred fifty thousand dollars at the end of each  
3 calendar quarter shall be deposited, pursuant to sections 35-146 and 35-147,  
4 in the state general fund.

5 ~~D. Notwithstanding any other law, if a person is found responsible for  
6 a civil traffic violation or a notice of violation pursuant to a citation  
7 issued pursuant to this section, the department of transportation shall not  
8 consider the violation for the purpose of determining whether the person's  
9 driver license should be suspended or revoked. A court shall not transmit  
10 abstracts of records of these violations to the department of transportation.~~

11 Sec. 7. Photo enforcement fund; appropriation

12 The sum of \$4,056,600 is appropriated from the photo enforcement fund  
13 established by section 41-1722, Arizona Revised Statutes, in fiscal year  
14 2009-2010 to the administrative office of the courts for the processing of  
15 state photo enforcement system traffic tickets and complaints.